

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Matthew A. Craig,	:	Case No. 1:07CV0481
	:	
Plaintiff	:	Judge Donald C. Nugent
	:	
v.	:	Magistrate Judge David S. Perelman
	:	
Susan Mary Brigadier, et al.,	:	MEMORANDUM OPINION
	:	AND ORDER
Defendants	:	

Of potentially critical, if not controlling importance, in this case is the decision of Judge Aldrich in Craig v. John Brigadier, et al. Case No. 1:04CV1741 entered March 30, 2006 granting summary judgment in favor of all defendants therein, including Susan Mary Brigadier and David Lawrence Brigadier, the defendants in this adversary proceeding initiated in Case No. 05-95695 in the United States Bankruptcy Court for the Northern District of Ohio (Adversary Proceeding No. 06-1261) and transferred to this court District by Order of Bankruptcy Judge Pat E. Morganstern-Clarren entered February 21, 2007.

In her ruling Judge Morgenstern-Clarren stated, in pertinent part:

In the case at hand, Craig must demonstrate the existence of a debt as an integral part of the dischargeability action. *See CMEA Title Agency Inc. v. Little (In re Little)*, 335 B.R. 376, 381 (Bankr. N.D. Ohio 2005) (noting that a dischargeability action under §523(a)(6) requires the creditor to demonstrate two distinct claims: (1) that the debtor owes a debt to the creditor, and (2) that the debt is nondischargeable). This court frequently decides dischargeability issues when the underlying debt for personal injury has previously been liquidated by a court of competent jurisdiction. This case is different. Here, it is unclear whether the disputed debt between these

particular parties has been determined by the district court. *See Craig v. Brigadier, et al.* no. 1:04CV1741 (N.D. Ohio) (Order addressing summary judgment dated March 30, 2006).

Therefore, to the extent the matter involves a “personal injury tort,” it would be inappropriate for this court to determine whether a claim exists.

From examination of the docket in Case No. 1:04CV1741 it appears that on May 4, 2006 Mr. Craig filed a Notice of Appeal to the Sixth Circuit Court of Appeals of Judge Aldrich’s ruling, and that the appeal, Case No. 06-3607, remains pending.

This being so, Judge Aldrich’s ruling is not yet final and, in this Court’s opinion, it would be premature to address the issue in the adversary proceeding prior to a ruling by the Sixth Circuit.

Consequently, this Court orders this action stayed until that appeal is resolved. As the plaintiff is proceeding pro se and counsel who had represented the defendants was granted leave to withdraw, this Court directs that plaintiff forward a copy of the decision of the Sixth Circuit when it is issued. Upon receipt thereof the stay will be lifted and this action will be given further consideration.

IT IS SO ORDERED

s/DAVID S. PERELMAN
United States Magistrate Judge

DATE: March 19, 2007